IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.36675 of 2007

K. Sriraman ... Petitioner

Vs.

1. Chennai Metropolitan Development
Authority, rep. by the Chief Executive
Officer / Senior Estate Officer
Thalamuthu Natarajan Buildings
No.1, Gandhi Irwin Road
Egmore, Chennai - 600 008.

2. The Sub Registrar
Registration Department
Chengalpattu
Pin: 603 003. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to execute the sale deed on the stamp duty paid on th actual consideration received by them and consequently direct the second respondent to receive the same for registration without insisting stamp duty on the guideline value in respect of Block No.2, HIG., Plot No.117, in NH-III, Maraimalai Nagar, Pin:603 209 allotted to the petitioner.

For Petitioners : Mr. S. Ganesan

For Respondents : Mr. G.S. Mohan (R1)

Mr. N. Senthilkumar, G.A. (R2)

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O R D E R

Mr.G.S.Mohan, the learned counsel appearing for the Chennai Metropolitan Development Authority takes notice for the first respondent and Mr.N.Senthilkumar, the learned Government Advocate takes notice for the second respondent.

2. With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final disposal.

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3. The petitioner was allotted Block No.2, H.I.G., Plot No.117, in N.H.-III, Maraimalai Nagar, Pin:603 209, vide Letter No.AL1/16155/85, dated 5.10.1989, issued by the first respondent for a total consideration of a sum of Rs.87,500/-. As per the allotment scheme, on completion of the payment by instalments, the allottee becomes legally entitled to get the sale deed to be executed by the first respondent and registered by the second respondent. The allotment was shared between the Tamil Nadu Housing Board and the Chennai Metropolitan Development Authority. With regard to the allotments made by the Tamil Nadu Housing Board, the allottees were permitted to furnish the stamp papers based on the actual consideration received by the first respondent and after execution, the second respondent had received the same for registration. However, with regard to the allotment made by the Chennai Metropolitan Development Authority, the first respondent had insisted on the furnishing of the stamp papers based on the guideline value and the second respondent had accepted the same for registration only if the sale deed is executed on the value of the stamp paper furnished based on the guideline value. Due to the existence of such discrimination, the allottees Association, had filed a writ petition before this Court in W.P.No.15275 of 2001. By an order, dated 13.09.2002, the writ petition had been allowed holding that the Chennai Metropolitan Development Authority cannot insist on stamp paper being furnished based on the guideline value and that the Registration Department was to register the sale deed without insisting on the stamp duty based on the guideline value, since the transaction would not attract the provisions of Section 47-A of the Indian Stamp Act. The said order made in W.P.No.15275 of 2001 was confirmed by a Division Bench of this Court, by its order, dated 20.1.2004, made in W.A.No.202 of 2003. A similar order had been passed in W.A.Nos.426-429/04, by an order, dated 20.04.2004. Since the second respondent had demanded payment of stamp duty based on the guide line value, the petitioner has preferred the present writ petition, invoking Article 226 of the Constitution of India.

4. At the stage of the hearing of the writ petition, it is submitted by the learned counsel appearing on behalf of the petitioner that the issues involved in the above writ petition are already covered by an order of a Division Bench of this Court, dated 20.1.2004, made in W.A.No.202 of 2003. Based on the said Division Bench order, this Court had passed several orders allowing many writ petitions. One such order, dated 06.10.2007, made in W.P.No.32321 of 2007, has been placed before this Court.

5. The learned counsels appearing on behalf of the respondents have not refuted the claims made by the learned counsel appearing on behalf of the petitioner.

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6. Based on the submissions made by the learned counsel appearing on behalf of the petitioner and in view of the order passed by the Division Bench of this Court in W.A.No.202 of 2003, dated 20.1.2004, the above writ petitions are allowed as prayed for. No costs.

csh

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Chief Executive
   Officer / Senior Estate Officer
   Chennai Metropolitan Development
   Authority,
   Thalamuthu Natarajan Buildings
   No.1, Gandhi Irwin Road
   Egmore, Chennai - 600 008.

2. The Sub Registrar
   Registration Department
   Chengalpattu
   Pin: 603 003.

+1 cc to Mr.S.Ganesan, Advocate Sr.No.72610.

+2 ccs to Mr.C,Kathiravan, Advocate Sr.No.72669,72660.

+1 cc to The Government pleader Sr.No.72799.

CU(CO)
DCP/13.12

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